

AO 91 (Rev. 11/11) Criminal Complaint

FILEDUNITED STATES DISTRICT COURT
ALBUQUERQUE, NEW MEXICO

for the

District of New Mexico



JUN 11 2018

JH

United States of America

v.

Benoit DAVID

Case No.

18mj1939

Defendant(s)

CRIMINAL COMPLAINT

I, the complainant in this case, state that the following is true to the best of my knowledge and belief.

On or about the date(s) of 9 June 2018 in the county of Curry in the
District of New Mexico, the defendant(s) violated:*Code Section*
21 USC 841 (a)(1) and (b)(1)(D)*Offense Description*
Possession with intent to distribute a controlled substance less than 50 kg of
marihuanaThis criminal complaint is based on these facts:
See attached affidavit☒ Continued on the attached sheet.

Complainant's signature

Colin Owens / SA / HST

Printed name and title

Sworn to before me and signed in my presence.
BY TELEPHONEDate: 06/10/2018City and state: Albuquerque, NM

Judge's signature

Jerry Ritter U.S. Magistrate Judge

Printed name and title

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

United States of America

v.

Benoit DAVID

Defendant.

AFFIDAVIT

I, Colin S. Owens, being duly sworn, hereby depose and state the following:

INTRODUCTION AND AGENT BACKGROUND

1. I am a Special Agent with Homeland Security Investigations (HSI), Immigration and Customs Enforcement, Albuquerque, New Mexico. I am currently assigned to HSI Albuquerque, where it is your affiant's duties to investigate violations of Immigrations and Customs laws, which include weapons smuggling, financial crimes, narcotics investigations, false and fraudulent use of identification documents, and the smuggling of illegal drugs.
2. Among other law enforcement training, I successfully completed twelve weeks of Criminal Investigator Training at the Federal Law Enforcement Training Center (FLETC). In addition, I completed thirteen weeks of Special Agent Training with Department of Homeland Security, U.S. Immigration & Customs Enforcement (ICE) Homeland Security Investigations (HSI) also at FLETC.
3. My experience as a Special Agent includes, but is not limited to, conducting surveillance, interviewing witnesses, writing affidavits for and executing search warrants, working with undercover agents and supervising confidential informants and sources. I have received training and have experience in the investigation of violations of the Comprehensive Drug Abuse and Prevention and Control Act of 1970, Title 21, United States Code, Section 801. I have participated in several drug trafficking investigations.
4. The information contained in this affidavit is not an exhaustive account of everything your affiant knows about this case. Rather, it contains only the facts that your affiant believes are necessary to establish probable cause in support of a criminal complaint against Benoit David for violation of Title 21, United States Code, Sections 841(a)(1) and (b)(1)(D).

5. The information contained within the affidavit is based on my training and experience, as well as information imparted to me by other law enforcement officers involved in this investigation.

RELEVANT STATUTES

6. This investigation concerns alleged violations of Title 21, United States Code, Sections 841(a)(1) and (b)(1)(D), Possession with intent to distribute a controlled substance; to wit less than 50 kilograms of marihuana.

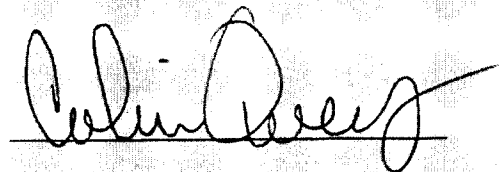
DETAILS OF INVESTIGATION

7. On June 09, 2018, I contacted Sergeant (Sgt) Riddle of the Clovis Police Department (CPD). Sgt Riddle reported to me that at approximately June 09, 2018, he conducted an authorized search of a red over white 1974 Cessna 182-P single engine fixed wing aircraft, tail number 'N7381N', located at Clovis Municipal Airport, Clovis, NM. The search was predicated on a report of suspicious activity received by Sgt. Riddle the previous day by Clovis Municipal Airport (CVN) Director, Joshua Matekovic.
8. Mr. Matekovic advised Sgt. Riddle that on June 06, 2018, a Cessna airplane matching the description above had landed at CVN. He also advised that the plane did not have its transponder on and/or operational, and that it did not radio its intention to land at CVN. This is considered a safety violation. He reported this violation to the Lubbock area FAA flight safety manager, Albert Hilard.
9. Hilard in turn conducted registration and owner checks of the aircraft. He discovered that the plane had been sold the previous month, and he contacted the previous owner. The seller told Mr. Hilard that the buyer did not want to show his identification to him, and that he also asked the seller to remove the back seat form the airplane.
10. Sgt. Riddle requested to view any available video footage of the plane arriving or departing at CVN. Initial footage showed the plane described above as landing at CVN on 06 June 2018, and departing on 07 June 2018. The same male individual exited and returned to the plane on those days.
11. Mr. Matekovic stated that the pilot of the plane purchased 22 gallons of fuel at CVN. The plane fueler told Mr. Matekovic that he thought the pilot's behavior was suspicious, as he refused to provide his name for the fuel receipt. The fueler did record the name from the pilot's credit card, the name was "Beniot David". While walking around the plane, the fueler also noted that there was no backseat in the aircraft.

12. Mr. Matekovic told Sgt. Riddle that Mr. Hilard had contacted him and advised that his checks on the name "Beniot David" indicated that a person of the same name had recently had his pilot's license revoked for trafficking offenses.
13. On 08 June 2018, at 2225 hours, Mr. Matekovic contacted Sgt. Riddle and advised him that the same plane had returned. He said, again that it did not have its transponder on, nor did it radio in its landing. Mr. Matekovic conducted a walk-around of the plane and noted very large boxes in the rear of the plane, where the rear seat would be located. These boxes were partly concealed by a blanket.
14. Based on this information, Sgt. Riddle requested that K9 Officer Aguilar respond to CVN and conduct a 'free air sniff' of the aircraft. The aircraft was parked on the air ramp, which is a parking lot for airplanes that land at the airport, and is considered public access for any aircraft.
15. Officer Aguilar deployed K9 Leo to the exterior of the plane and observed K9 Leo alert twice to the exterior of the plane.
16. Sgt. Riddle applied for and received a search warrant in the District Court of Curry County to search the aircraft and its contents. The search revealed four (4) large hard case black boxes containing 79 vacuum sealed packages that contained a green leafy substance that field positive for the properties of marihuana. The approximate weight of the marihuana totaled 42 kilograms.
17. A subject, later identified as Benoit DAVID, arrived at CVN and was encountered by CPD Officers. DAVID was detained and interviewed by CPD. He admitted transporting the marihuana and further said that he was paid \$10,000 US dollars (\$6,000 for his task, and \$4000 for expenses) to take the marihuana to Florida.
18. I arrived in Clovis and coordinated with CPD Officers. I arrested DAVID on Federal charges in the District of New Mexico for violations of 21 USC841(a)(1) and (b)(1)(D).
19. DAVID was transported to the HSI office in Albuquerque, New Mexico for processing. A search of ICE databases and positive fingerprint match revealed subject does not have status in the United States. There is no evidence that Subject has applied for or received the consent of the Secretary of Homeland Security of the United States to reapply for admission into the United States. Subject stated that he was a Canadian citizen and did not have status in the United States.
20. From my training and experience, I know it is common for air traffickers to remove the rear seat in smaller aircraft to create a greater storage area to place narcotics, and to lighten the aircraft's weight. I also know it is common for narcotics traffickers to avoid registering their real name to vehicle used to traffic narcotics, or in transactions associated with narcotics trafficking, to avoid Law Enforcement apprehension.

CONCLUSION

21. Based on the foregoing, your affiant believes that there is probable cause that on or about June 9, 2018, 2018, in the State and District of New Mexico, Benoit DAVID violated Title 21, United States Code, Sections 841(a)(1) and (b)(1)(D).



Colin Owens
Special Agent
Homeland Security Investigations

BY TELEPHONE

Subscribed and sworn to before me
This 10th day of December 2018



HONORABLE JERRY RITTER
United States Magistrate Judge

June 2018
CSO